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COMMUNICATION FROM THE COMMISSION

Guidance to support the implementation of Regulation (EU) 2024/900 on the transparency and targeting of political advertising

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The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.

The responses to this consultation paper will provide valuable input to inform the Commission's future work

Contents

Introduction.....	1
1. Who is covered?	5
1.1 Sponsors	5
1.2 Providers of political advertising services	6
1.2.1 Services covered under the new rules	7
1.2.1.1 Exemption for intermediary services provided without consideration for the specific message	8
1.2.1.2 Exemption for ancillary services.....	9
1.3 Political advertising publishers.....	10
1.3.1 Ad technology providers.....	10
1.3.2 Content creators	10
2. What is political advertising?.....	12
2.1. Overall scope and definition.....	12
2.2 Constitutive elements of the definition of political advertising.....	15
2.2.1 Messages ‘normally provided for remuneration’	15
2.2.2 Messages provided ‘through in-house activities’	15
2.2.3 Messages provided as part of political advertising campaign.....	16
2.2.4 Messages by, for or on behalf of a political actor.....	17
2.2.5 Messages that are purely private or purely of a commercial nature	18
2.2.6 Messages liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process.....	18
2.3 Practical steps for the identification of political advertising.....	20
3. Obligations under the Regulation.....	24
3.1 Obligations on sponsors.....	24
3.2 Obligations on providers of political advertising services.....	26
3.2.1 Article 5(1): Non-discrimination.....	26
3.2.2 Article 5(2): Ban on third-country sponsors.....	26
3.2.3 Article 6(2): Contractual arrangements	27
3.2.4 Article 7: Identification of political advertising services	28
3.2.4.1 Contractual arrangements	28
3.2.4.2 Administration of declarations and the necessary information.....	28
3.2.4.3 Verification of information	29

3.2.5 Article 9: Record-keeping	30
3.2.6 Article 10: Transmission of information to the political advertising publisher	31
3.2.7 Article 16: Transmission of information to national competent authorities	31
3.2.8 Article 17: Transmission of information to other interested entities	31
3.2.9 Article 21: Legal representative.....	32
3.3 Obligations on political advertising publishers	32
3.3.1 Articles 11 and 12: Labelling and transparency notices	32
3.3.2 Article 13: European repository for online political ads	33
3.3.3 Article 14: Periodic reporting	34
3.3.4 Article 15: Notification mechanism	34
3.4.4.1 Interplay with ‘notice and action mechanisms’ under Regulation (EU) 2022/2065 – Digital Services Act (DSA).....	35
3.4.4.2 The notion of ‘best efforts’	37
3.3.5 Obligations on Ad technology providers.....	38
3.3.6 Obligations on content creators	39
3.4 SMEs	41

Introduction

Political advertising is a key tool in driving election and political campaigns and shaping public opinion on legislative and regulatory processes. Its dissemination can take many forms across border both offline and online and include paid content, sponsored search results, paid targeted messages, promotion in rankings and promotion of something or someone integrated into the content, such as through product placement using content creators. It can rely on specific techniques, including AI.

The need to ensure effective transparency of political advertising is a public legitimate goal. Citizens should be able to recognise political advertisements and exercise their rights in an informed manner. Empowering citizens to identify messages that seek to influence their voting behaviours and the shaping of their political views by providing relevant information promotes accountability in political campaigning and helps preventing disinformation and information manipulation and interference, including from third countries.

In full respect of democratic values and fundamental rights, including freedom of expression, the Regulation (EU) 2024/900 on the transparency and targeting of political advertising ('the Regulation') addresses the increasing complexity and cross-border nature of political advertising, the rapid increase in online political advertising, as well as the use of advanced targeting techniques and the threat of foreign information manipulation and interference.

The Regulation provides EU common standards in the internal market for political advertising services, requiring – inter alia – clear labelling and transparency notices with additional information, such as the details of the sponsor in the context of the provision of political advertising services.

Chapter I of the Regulation sets out the **objectives** (Article 1), i.e. ensuring a harmonised approach to political advertising transparency and accountability across the EU, and the **scope** (Article 2) of the Regulation. It also outlines key **definitions** (Article 3) and frames key **principles** for the provision of political advertising services in the Union, including the internal market principle (Article 4) and non-discrimination based on the place of residence or establishment of the sponsor (Article 5). This facilitates the non-discriminatory access to cross-border political advertising services, in particular for European political parties.

The Regulation limits the provision of certain political services three months before an election or referendum to citizens of the Union, third country nationals permanently residing in the Union and having a right to vote in that election or referendum or legal persons in the Union which are not controlled by third country entities (Article 5).

Chapter II of the Regulation (Articles 6 to 17) provides harmonised rules, on which the present guidance focuses (together with the definitions in Chapter I), including **transparency and related due diligence obligations**, applicable to (i) **providers of political advertising services**, i.e. economic actors providing political advertising and related services in the internal market, to (ii) **publishers** (specific category of the service providers) and to (iii) **sponsors** requesting such services.

The provisions under Chapter II apply whenever a political advertising service is provided. If a service is involved, several different obligations apply throughout the value chain for providers of political advertising services, including:

- establishing whether the advertising service is political;
- ensuring compliant contractual arrangements;
- record-keeping and transmitting relevant information to political advertising publishers;
- labelling of political ads and providing transparency notices;
- making online political advertisements available in the European repository;
- periodic reporting on political advertising to be included in annual financial statements;
- providing for mechanisms to enable individuals to flag potentially non-compliant ads;
- transmission of information to national competent authorities or to interested entities (i.e. vetted academic researchers, members of civil society organisations, political actors, electoral observers or journalists).

Chapter III of the Regulation (Articles 18 and 19) complements the existing data protection rules and sets out common rules on **the use of targeting and ad-delivery techniques** on the basis of the processing of personal data in the context of **online political advertising**. These rules add more transparency and foster an additional layer of protection of minors while enabling equal conditions for first-time voters.

The Regulation allows targeting and ad-delivery techniques only when personal data are collected from the data subject, and with his or her explicit consent for the delivery of political advertising. The use of profiling based on special categories of personal data as defined in Regulation (EU) 2016/679¹ or Regulation (EU) 2018/1725² (sensitive personal data) or the application of such techniques to minors who are at least one year under the voting age is prohibited.

Chapter III applies to political advertising provided for remuneration, also in the framework of a political advertising campaign, and to in-house activities - i.e. even when the targeting entities are not providers of political advertising services, for instance, where the targeting is realised directly ('in-house') by the political actors. Controllers, political advertising publishers and providers of political advertising services must comply with additional transparency requirements relating to targeting and ad-delivery techniques.

Any use of targeting and ad-delivery techniques is subject to:

- the controller collecting the personal data from the data subject and separately obtaining explicit consent for the purpose of political advertising;

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).

² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.

- ban on profiling using special categories of personal data, such as data revealing political opinions, race, or health;
- ban on the use of targeting and ad-delivery techniques towards individuals known to be at least one year under the voting age according to national rules (i.e. minors);
- additional transparency requirements for controllers, and where applicable political advertising publishers and service providers, including providing additional information together with the political advertisement;
- controllers implementing internal policy or keeping records on the use of such techniques.

The rules on targeting and ad-delivery techniques apply to **online** political advertising only, while the **transparency and due diligence requirements apply both online and offline**.

Chapter IV of the Regulation (Articles 21 to 26) also establishes a liability framework under a dedicated sanction system applicable to providers of political advertising services and to sponsors, where appropriate.

The Regulation is directly applicable and can be invoked in front of national courts. Its supervision is the responsibility of competent authorities, including data protection authorities, designated by Member States. To foster an additional layer of scrutiny, a mechanism allowing individuals to notify publishers of potentially non-compliant political advertisements must be established.

The provisions outlined in the Regulation should be interpreted in accordance with its overarching purpose and objectives. Any conduct or coordinated effort intended to deliberately evade the specific obligations or restrictions **may be considered as circumventing the rules**.

The Regulation explicitly calls upon the Commission to draw up common guidance to contribute to effective implementation of the new rules. Article 8(2) specifically requires the Commission to draw up guidance to help identify political advertising.

The guidance builds on the feedback received by the Commission in the context of the relevant networks, the dedicated focus groups and the call for evidence being published.

It aims at supporting the different actors that are covered by the Regulation (sponsors, providers of political advertising services and political advertising publishers) as well as competent Member State authorities in their oversight functions. It focuses on the elements of the Regulation which have been identified to benefit from additional guidance³, in view of streamlining the compliance processes and reduce burden.

The guidance represents the Commission's understanding of the relevant provisions of the Regulation (in particular of its Chapter I and II) and is without prejudice to the interpretation of the Regulation by the Court of Justice. It does not affect the guidelines that are to be provided by the European Data Protection Board regarding the use of targeting and ad-delivery techniques under Article 18 and 19, as referred to in Article 22(2) of the Regulation. In the perspective of such guidelines to be issued by the European Data

³ Reflecting the needs expressed by stakeholders during the dedicated consultations that took place between December 2024 and April 2025, as part of the Call for Evidence, as well as those highlighted by the study conducted to support the preparation of this Guidance.

Protection Board, this document focuses on the obligations related to the provision political advertising services.

In line with Article 13(6) of the Regulation, implementing acts for the effective functioning of the **European repository ('the Repository')**, subject to the comitology procedure, will set out detailed arrangements for the provision of a common data structure, standardised metadata to facilitate the inclusion of political advertisements in the Repository and the indexation of political advertising by online search engines, standardised authentication, and a common application programming interface, with a view to enabling the aggregation of the information published online pursuant to the Regulation to be accessed through a single portal. These implementing acts will be adopted as soon as possible and, in any event, by 10 April 2026, as foreseen in Article 13(6). Based on these detailed arrangements, the Commission will establish the Repository. Consequently, the obligations of the publishers related to the Repository that is to be established will only become relevant as of the date of its deployment.

The Commission is taking all the necessary steps to ensure the operationalisation of the Repository in an inclusive manner and building on existing work. This includes the development of a data entry interface using primarily metadata that will be set out in the implementing act.

To support compliance preparations in advance of the deployment of the Repository, besides conducting targeted consultations, the Commission is contemplating making available an internal prototype version, which would be tested on a voluntary basis with relevant publishers.

Additionally, to make sure that publishers of online political advertising have sufficient time to undertake preparations and familiarise themselves with the new metadata standards, the Commission is envisaging an early adoption of the corresponding implementing act. To increase legal certainty, the implementing act(s) should include concrete criteria for announcing the date when the Repository will come online, enabling publishers of online political advertisements to have clarity as of when they will have to fulfil the related obligations.

1. Who is covered?

The Regulation provides for harmonised rules applicable to **sponsors** and **providers** of political advertising services, including political advertising **publishers**. It applies to messages prepared, placed, promoted, published, delivered or disseminated directly or indirectly by, for or on behalf of a political actor, as well as to messages by other actors which are liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process at Union, national, regional or local level. The Regulation covers political advertising that is normally provided for remuneration or through in-house activities or as part of a political advertising campaign (see further Section 2).

The transparency requirements regarding labels and transparency notices and the due diligence requirements **do not apply to Member States' national authorities insofar as they do not qualify as providers of political advertising services**. National authorities requesting political advertising from providers of advertising services may however qualify as sponsors and must in that case comply with obligations contained in Chapter II.⁴

1.1 Sponsors

Specific rules apply to sponsors in line with the Regulation. Its Article 3(10) defines sponsors as 'natural or legal persons at whose request or on whose behalf a political advertisement is prepared, placed, promoted, published, delivered or disseminated'.

The definition encompasses situations where those persons act in their own capacity and where their actions cannot be attributable to another entity ('at whose request'), such as where they are themselves political actors, or where they are running campaigns to support candidates or political parties running for elections without those actors necessarily being involved or aware (e.g. registered third parties).

The Regulation also covers situations where political advertising services are requested on behalf of sponsors ('or on whose behalf'), for instance, by providers of political advertising services (e.g. marketing agencies) acting further on behalf of natural or legal persons requesting their services, or by an employee of a political party, acting at instruction of its employer and thus on behalf of the political party.

Any advertising coming from sponsors qualifying as political actors under Article 3(4) would a priori be political, unless of purely private or purely commercial in nature.

For other types of sponsors, advertising **liable and designed to** influence the outcome of an **election or referendum, voting behaviour or a legislative or regulatory process**, at Union, national, regional or local level, will be covered.

⁴ The special rules on targeting and ad-delivery techniques provided for in Chapter III apply to the use of personal data for the purposes of targeting or ad-delivery of online political advertisements. This means that the relevant requirements also cover Member State national authorities and EU institutions and bodies when they engage in such activities as controllers.

Further assessment of the relevant factors might be needed to identify the advertising (service) as political (see Section 2.3).

Examples of sponsors:

Political parties, political alliances, political groups, candidates for elected office, individuals running electoral campaign (e.g. third-registered parties), elected politicians, members of governments, ministries, CSOs, think tanks, commercial companies.

As referred to in Recital 22 of the Regulation, sometimes another entity can ultimately exercise control over a sponsor. **Ultimate control** over an entity should be first and foremost determined by the ability to exercise a decisive influence, which can be achieved through various mechanisms, such as through rights, contracts, as well as other means.

Decisive influence can manifest in different ways, such as through ownership, rights to use assets or to impact the composition of governing bodies, voting rights (i.e. holding a decisive amount of voting shares) or through contractual agreements that impact decision-making processes (e.g. rights to manage entity's business operations or rights allowing a decisive impact over financial or strategic policies). These elements must collectively provide the capability to guide the strategic direction or major decisions of the sponsor.

1.2 Providers of political advertising services

Providers of political advertising services⁵ will be bound by the new rules within the internal market⁶. Some situations are excluded. In particular, providers of intermediary and ancillary services do not fall within the scope of the new rules.

Under Article 3(5), political advertising service is defined as a service consisting of political advertising with the exception of an online 'intermediary service', as defined in Article 3, point (g), of Regulation (EU) 2022/2065, that is provided without consideration, for the preparation, placement, promotion, publication, delivery or dissemination for the specific message. The provider of political advertising service is the one engaged in providing such service, unless they provide purely ancillary services, as defined in Article 3(6).

Organisations pursuing **charitable goals** may qualify as providers of political advertising services under the Regulation, when they engage in economic activities related to political advertising.

Examples of typical providers of political advertising services:

Preparation: Copywriters, design agencies, advertising agencies, message design and marketing agencies, focus group and other research companies, data analytics, political consultancies, public

⁵ The Regulation is without prejudice to the rules regarding intermediary services laid down in Regulation 2024/2065 (Article 2(3)(i) Regulation 2024/900).

⁶ Even if providers which are not excluded from the scope of this Regulation make the commercial choice of not providing political advertising, specific obligations will still apply, such as the obligation to request the relevant declarations from sponsors under Article 7(1).

relations firms and political analysts (including those using personal data harvested from online activity).

Publication: Broadcasters, newspapers and periodicals, billboards and other physical media, online platforms, websites (including news sites and political party sites), forums and blogs, video sharing sites, bloggers, content creators.

Delivery or dissemination: Ad technology providers (e.g. ad networks, ad exchanges, ad platforms), targeting and media consultancies, data brokers.

1.2.1 Services covered under the new rules

The services covered are the ones covered under Article 57 TFEU. The notion of political advertising service, which relies on a definition of ‘service’ under Article 3(1), comprises any **self-employed economic activity that is normally provided for remuneration**.⁷

The essential characteristic of being normally provided for remuneration lies in the fact that a ‘consideration’ for the service in question is normally agreed upon between the provider and the recipient of the service.⁸

The notion of **consideration is broad** and includes regular payment as well as benefits in kind. This means that the provision of service does not need to rely solely on monetary compensation but could also include other considerations in exchange for the provision of the service⁹, such as any discounts, travel arrangements, accommodation or access to events or places that would otherwise be paid for.

For example:

1. A contractor is tasked by a political party to prepare short advertising videos to support the party’s candidacy in local elections that are then published on the social media accounts of local-level political party branches. Even if the contractor is only tasked with creating the video (and not its publication), the activity would fall under the notion of a ‘normally provided for a remuneration’ as the contractor is remunerated by the political party for its work.
2. Content creators are invited by industry stakeholders to an event in Brussels on a dedicated topic (all expenses covered) directly related to an ongoing legislative process and are, in exchange, asked to prepare social media post on their accounts. In such cases, the influencers received benefits in kind, in the form of an all-expense-paid trip, and thus the preparation and publication of a post would qualify as ‘normally provided for a remuneration’.
3. A **candidate creating and posting on her social media** directly would **not** be considered a service (but an in-house activity) and would not require transparency disclosure.

⁷This wording follows the definition of services provided in Article 57 TFEU and is used also in other relevant EU legislation See the Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market or the Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services

⁸ See, for example, Judgement of 27 September 1988, Humbel and Edel (C-263/86, EU:C:1988:451, paragraph 17) and of 22 May 2003, Freskot (C-355/00, EU:C:2003:298, paragraph 55).

⁹ See, for instance, Judgement of 19 October 2023, QB (C-88/22 P, EU:C:2023:792, paragraph 30).

1.2.1.1 Exemption for intermediary services provided without consideration for the specific message

The notion of political advertising services under the Regulation does not include online ‘intermediary services’ that are **provided without consideration, for the preparation, placement, promotion, publication, delivery or dissemination for the specific message**.

This leaves out cases where the online intermediary, overall, enables the provision of political advertising services but is not directly involved in the production chain. This reflects the ordinary use of online platforms. It could be the case where a user (e.g. a content creator) has been remunerated by a third party to post a political advertisement on an online platform. The platform would in such case not be considered as providing political advertising services.

An ‘intermediary service’¹⁰ means a service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services, which consists of either:

- i. a ‘mere conduit’ service (e.g. internet access service providers, open Wi-Fi network providers, web browsers);
- ii. a ‘caching’ service (e.g. provision of content delivery networks, reverse proxies or content adaptation proxies); or
- iii. a ‘hosting’ service (e.g. web hosting, online platforms, cloud storage sites).

Since the activities of the users, including content creators, are mediated by providers of online platforms, which control the means by which compliance with the Regulation can be achieved, in line with Recital 55, those providers are however **encouraged to facilitate compliance by users**, where applicable. In particular, they are encouraged to facilitate the identification of political advertising uploaded or disseminated directly by users via their online intermediary service, for instance, by putting efficient mechanisms at the disposal of users to indicate that an advertisement is political. To further facilitate compliance, those providers could, for instance, provide for tools to enable the provision of transparency notices, support the completeness of data fields as part of such tools, or provide also for the mechanisms that would allow the notification of possibly non-compliant political advertisements directly to the users.

This would not in any case imply assuming the responsibility for transparency related obligations where those obligations lie on the users.

For example:

4. A post on a social media network where the message is not boosted or otherwise paid to be disseminated or delivered to specific users. The platform would simply host the message and transmit it to its audience without a specific payment. As those ‘hosting’ services are provided without a consideration for the specific activity, they would not be considered political advertising services.
5. For the purposes of publication, delivery or dissemination of political advertisements online, an internet provider is being paid to establish an internet connection, through which the political

¹⁰ In line with Article 3(g) of the Regulation (EU) 2022/2065.

advertisements are transmitted. However, the internet provider is not specifically remunerated for the transmission of any particular message. The mere conduit service provided by the internet provider would not be considered a political advertising service.

1.2.1.2 Exemption for ancillary services

Purely ancillary services are not covered by the Regulation. The concept of ancillary services is well established in EU law, for instance in consumer law. Such services could include, for instance, **transportation, financing and investment, purchasing, sales, catering, marketing, computer services, cleaning, maintenance, postal services, printing services, graphic, sound or photographic design.**

As outlined in Recital 39, ancillary services are services which are provided in addition to and which complement political advertising, but which have no direct influence on its content or presentation and no direct control over its preparation, placement, promotion, publication, delivery or dissemination. This should, inter alia, mean that an ancillary service does not need to depend on the means or ends of the principal service which it complements, and can be provided as a stand-alone activity (also in other areas than political advertising).

In order to determine whether a service constitutes ancillary service, particular account should be given to the **degree of influence** the given service **has over the substance, as well as the preparation, placement, promotion, publication, delivery or dissemination.**

Ancillary services will typically cover service providers that are involved in the value chain but without direct control over the process or outcome of political advertising, or service providers without actual knowledge of their involvement in the production ecosystem.

The assessment will need to be conducted on **case-by-case basis** and the interpretation should also take into account that one service provider might qualify as provider of ancillary service in one case but could prove to be a provider of political advertising service in another one, based on the particular service provided and/or degree of influence exercised.

A set of **contextual elements** could be taken into account in this assessment, such as whether and to what extent the provider acts upon clear instructions from the sponsor, whether the provider offers general services in their field of expertise or specialises (also) in provision of these services in political or electoral context and whether the particular service provided represents an example of a wider range of services, which could otherwise be characterised as political advertising services.

Examples of likely ancillary services:

6. A transportation company providing vehicles and logistics for the distribution of campaign materials.
7. Branding or collateral design services engaged in creating a campaign's visual identity, including logos, colour schemes or typography, which can be applied to a variety of campaign materials but without getting involved in conveying political messages.

8. Marketing agency providing guidance on strategic planning of campaign outreach without getting engaged in political advertising itself and provided there is no direct influence on the content or presentation of the messages to be part of the campaign outreach.
9. IT companies providing website security services.
10. Photographic services contracted to solely capture and edit photographs which will be used for campaigning, without an input into the campaign content.
11. Print and copy services when making available printing facilities without control over what is actually being printed.
12. Graphic design companies providing website design for political actors.

1.3 Political advertising publishers

Political advertising publishers represent a subset of providers of political advertising services, usually at the end of the production chain. They are bound by the common obligations to all service providers and in addition have specific obligations to comply with.

In line with Article 3(13), they are defined as providers of political advertising services publishing, delivering or disseminating political advertising through any medium. This encompasses a wide spectrum of channels **through which political advertising can be brought to public**, ranging from traditional ‘offline’ media (e.g. newspapers, television and radio) or printed outlets (e.g. posters, leaflets, billboards) to on-demand audio and video, online platforms, websites, search engines, streaming media, mobile applications, computer games and other digital interfaces, but also content creators (see also examples in Section 1.2).

1.3.1 Ad technology providers

An important role in getting political advertisements to the public is often played by intermediaries engaged in placing the advertisements on the relevant publishing interfaces. Providers of **Ad networks, Ad exchanges, Ad Platforms** or other online ad services, including **supply-side and demand-side platforms**, create instrumental components in the digital advertising ecosystem by acting as intermediaries between the advertiser (i.e. the sponsor) and the public-facing interface (i.e. the ultimate publisher), facilitating or streamlining the interactions and transactions between them.¹¹

1.3.2 Content creators

Content creators can also be covered by the Regulation. This includes **influencers**, who are increasingly relied upon to promote goods, brands, initiatives or ideas, and receive compensation for collaborations.

The Regulation imposes specific transparency or due diligence obligations to any natural or legal person engaging in the provision of political advertising services and allocates responsibility related to provision or transmission of information to the entities commissioning the services

¹¹ Section 3.3.5 provides more details on the specific responsibilities of the Ad technology providers.

(i.e. the sponsors). When engaged in political advertising services, content creators, have to comply with the transparency or due diligence obligations.

EU consumer law acquis¹² already provides for specific obligations that content creators, in their capacity of traders or as persons acting in the name or on behalf of traders (such as brand owners), must comply with in connection with the advertising and supply of goods and services to consumers (in business-to-consumer commercial relations). The Guidance on the Unfair Commercial Practices Directive¹³ explains that content creators should disclose commercial content in a salient manner. It also explains that, depending on the circumstances of the case, the breach of transparency obligations could be attributed both to the content creator or to the trader/brand owner that has engaged the content creator and benefits from the content creator's endorsement.¹⁴

¹² For instance, the Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market.

¹³ Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market

¹⁴ The rules on influencer marketing may be further clarified in a possible Digital Fairness Act. See outcome of the Fitness Check at: https://commission.europa.eu/document/download/707d7404-78e5-4aef-acfa-82b4cf639f55_en?filename=Commission%20Staff%20Working%20Document%20Fitness%20Check%20on%20EU%20consumer%20law%20on%20digital%20fairness.pdf.

2. What is political advertising?

2.1. Overall scope and definition

i) Overall scope

The Regulation addresses the transmission of political advertising **when a political advertising service is being provided** or when **targeting** or **ad-delivery techniques** are used.

Commercial advertising could also qualify as political advertising if the message meets the criteria of the definition of political advertising (see below).

At the same time, it must be clarified that the Regulation **does not cover what information is allowed in political advertisements under EU or Member State law¹⁵ or whether the messages are factually correct**, and it **does not alter** the rules on the conduct and funding of political campaigns, including general bans or limitations on political advertising during specified periods, ‘silence periods’, donations by private individuals or prohibitions on the use of commercial advertising for election campaign purposes.

In addition, the Regulation **does not apply to political opinions expressed in personal capacity**. Opinions expressed in a personal capacity should typically be identified as such by the individual expressing them (see Article 1(3)).

For example:

13. **A private individual publishing their political view** on a personal blog **does not fall** within the scope of the Regulation unless they received specific payment (in money or in kind) to do so.
14. **People sharing their views about a local policy on their social media accounts** are likely to be doing so spontaneously, without receiving any benefits. This is **not covered** by the Regulation.
15. **Online content creators discussing political reforms**, particularly when explicitly stating they are **expressing their individual thoughts**, are likely to be expressing opinions in their personal capacity. This would not be covered by the Regulation.

Further, the Regulation does not apply to **political views or other content that fall under the editorial responsibility of the media** unless specific payment, in money or in kind, is made by third parties for or in connection with the preparation, placement, promotion, publication, delivery or dissemination of such views or content.

For example:

16. **Opinions or assessments shared as part of a political debate, or an interview broadcasted on television or radio** would normally fall under the editorial responsibility and would **not** constitute political advertising.

¹⁵ Except for three months before an election or referendum where, in accordance with Article 5(2), political advertising services pertaining to that election or referendum cannot be provided to third-country sponsors regardless of the specific content of the advertisement.

17. **Editorial opinion columns commenting on recent legislative proposals**, political events or other developments would normally fall under editorial responsibility and would **not** constitute political advertising.

As provided for in Article 2(3), the Regulation is without prejudice to the rules laid down in other Union legal acts which are listed in that Article, such as Directive 2000/31/EC¹⁶ and Regulation (EU) 2022/2065¹⁷.

ii) Definition

The Regulation defines political advertising in the following way:

Article 3, point (2)

‘political advertising’ means the preparation, placement, promotion, publication, delivery or dissemination, by any means, of a message, normally provided for remuneration or through in-house activities or as part of a political advertising campaign:

- (a) by, for or on behalf of a political actor, unless it is of a purely private or a purely commercial nature; or*
- (b) which is liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process, at Union, national, regional or local level;*

and does not include:

- (i) messages from official sources of Member States or the Union that are strictly limited to the organisation and modalities for participating in elections or referendums, including the announcement of candidacies or the question put to the referendum, or for promoting participation in elections or referendums;*
- (ii) public communication that aims to provide official information to the public by, for or on behalf of any public authority of a Member State or by, for or on behalf of the Union, including by, for or on behalf of members of the government of a Member State, provided that they are not liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process;*
- (iii) presenting candidates in specified public spaces or in the media which is explicitly provided for by law and allocated free of charge, while ensuring equal treatment of candidates;*

The definition (first part) covers all stages of production of a political advertisement, from its preparation to its dissemination. It also covers all forms of preparatory engagement in political advertising and all forms in which political advertisements may be circulated to the public, such as by being published or disseminated through various media, including traditional offline media (e.g. newspapers, television and radio), printed outlets (e.g. posters, leaflets, billboards, political

¹⁶ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (‘Directive on electronic commerce’) (OJ L 178, 17.7.2000, p. 1).

¹⁷ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)

merchandise, online platforms, websites, mobile applications, computer games and other digital interfaces).

The definition (second part) clarifies that **not all messages** are covered but **only those** whose preparation, placement, promotion, publication, delivery or dissemination is ‘**normally provided for remuneration**’; that are prepared, placed, promoted, published, delivered or disseminated ‘through **in-house activities**’; or that form ‘part of a political advertising **campaign**’.

The definition of political advertising lays down the necessary **criteria in points (a) and (b)**. These criteria **are not cumulative**. In other words, in order to constitute political advertising, it is sufficient that a message falls under only one of them. Messages that do not meet any of those criteria do not qualify as political advertising under the Regulation and do not fall under its application.

The definition of political advertising provides for **three exceptions**. The obligations under the Regulation would not apply to any instances covered by the following exceptions:

- 1) **Messages from official Member State or EU sources** that are strictly limited to the organisation of and modalities for participating in elections or referendums, including the announcement of candidacies, the question put for vote in referendum, or messages to promote participation in elections or referendums;
- 2) **Public communication that aims to provide official information to the public**, provided that such public communication is not liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process, where such communication is by, for or on behalf of: (a) any public authority of a Member State, including public communication by, for or on behalf of the members of the government of a Member State, or (b) the EU (e.g. press releases or conferences announcing legislative or regulatory initiatives and explaining the policy choice underpinning such initiatives);
- 3) **Presentation of candidates in specified public spaces or in the media**, where the allocation of such spaces or media coverage is explicitly provided for by law, is free of charge and ensures the equal treatment of candidates.

For example:

18. A public information campaign explaining how and when to vote, organised by a Member State authority in charge of elections before the national parliamentary elections (first exception).
19. A public information campaign explaining to EU citizens how and when to register to vote in their Member State of residence, organised before the European elections by an EU institution (first exception).
20. A technical briefing organised by a ministry to present the details of the policy choices made in a proposed legislative instrument would normally be factual and would not seek to influence the legislative process (second exception).
21. Press releases that explain a decision made by a ministry or its minister, including reactional statements that serve to clarify issues or to correct inaccurate or misleading information in the public space, as this would normally be factual and seek to provide official information to the public, even if published during an election period or decision-making processes.

22. Guides or handbooks shared online or via physical copies seeking to guide the public through rules or procedures (second exception).
23. Objective presentation of candidates in public spaces (e.g. billboards) or in the media (e.g. TV, by allocation of broadcasting time for this objective presentation), free of charge, ensuring equal treatment, and as provided for by law (third exception).

2.2 Constitutive elements of the definition of political advertising

2.2.1 Messages ‘normally provided for remuneration’

Messages whose preparation, placement, promotion, publication, delivery, or dissemination is ‘**normally provided for remuneration**’ refer to political advertising services which are typically **paid for**.

The notion of **remuneration under EU law is generally broad** and includes **payment or benefits in kind**¹⁸, such as travel arrangements, accommodation or access to events or places that would otherwise require payment (see also the elements on service providers in Section 1.2.1).

This does not affect the fact that political opinions or other editorial content should not be considered political advertising, unless specific payments or other remuneration are provided for, or in connection with, their preparation, placement, promotion, publication, delivery or dissemination by third parties.

See also the elements provided above on service providers.

2.2.2 Messages provided ‘through in-house activities’

Political advertising conducted through ‘in-house activities’ applies to cases where **entities** (e.g. political parties, companies or public bodies) prepare, place, promote, publish, deliver or **disseminate messages using their own resources** (e.g. employees), rather than outsourcing activities to external providers. This can cover activities of **legal persons** and also of associations **without legal personality**.

Recital 24 clarifies that such activities are carried out within an entity that is acting on its own behalf and that comprise or substantially contribute to political advertising. In-house activities, which do not involve the provision of a political advertising service are therefore **relevant only when using targeting or ad-delivery techniques in online political advertising**.

In the absence of a publishing service, transparency requirements under Chapter II, in particular on labelling and the provision of transparency notices **would not apply**. This does not affect the obligation of providers of political advertising services to comply with the relevant obligations when they only engage in the provision of services other than publishing services. If they are, for instance, **only involved in the preparation** of the political advertisement, they will still **have to comply with the obligations applicable to all providers**.

¹⁸ As confirmed by the CJEU jurisprudence, see C-263/86 Humbel [1988], par. 17 and C-88/22 P [2023:792], par. 30.

For example:

24. Political advertisements which are prepared by an entity using its own resources (e.g. an internal marketing or communication team) and then disseminated through that entity's own or associated social media accounts.
25. The posting of a political advertisement by a political party on social media on its own behalf (without paid publishing service involved), even where the preparation involved a paid service (e.g. with a PR company).
26. A political party prepares the content and visuals of messages through its internal marketing team and posts the messages directly on its social media account.
27. An industry association prepares and shares, on behalf of its members, a position statement on its social media account to promote the views of its members designed to influence an ongoing legislative process.

2.2.3 Messages provided as part of political advertising campaign

Article 3, point (7), defines 'political advertising campaign' as 'the preparation, placement, promotion, publication, delivery or dissemination of a series of linked political **advertisements in the course of a contract for political advertising on the basis of common preparation, sponsorship or funding**'.

It covers situations in which linked political advertisements are disseminated under a common framework based on contractual arrangements, without remuneration being directly associated with each advertisement. This is particularly relevant to the dissemination of content on social media and other activities based on a common preparation, if there is a contract.

There must be **elements of common preparation** (e.g. the content of the advertisements is the same, the advertisements share the same base/visuals/tone but are tailored to different audiences or there is evidence of coordination and planning). At the same time, the campaign must be conducted on the basis of a **contractual relationship**.

For example:

28. A political party contracts a marketing agency for preparing a series of posts to be uploaded directly on the party's social media account. These would qualify as political advertising.
29. An association hires a digital consultancy firm to design and distribute a series of infographics highlighting the positive impact of proposed government policies on citizens' health. The infographics are tailored to audiences of different ages, have a uniform visual theme and message. As such infographics are likely intended to influence an ongoing legislative process, they could fall within the scope of a political advertising campaign.
30. An entity works with a creative agency to launch a campaign to increase voter turnout in the upcoming elections. The campaign uses a series of animated videos, each designed to resonate with different cultural contexts but conveying the same core message and aesthetic qualities. Given that the aim of the campaign is to influence the voting behaviour or ultimately the outcome of the elections, it would qualify as a political advertising campaign.

2.2.4 Messages by, for or on behalf of a political actor

Under Article 3, point (2)(a), the definition of political advertising includes advertising **prepared, placed, promoted, published, delivered or disseminated by, for or on behalf of a political actor**. Beyond politicians and political parties themselves, this also includes various entities which sometimes act as proxies for political parties.

Article 3, point (4), defines political actors as any of the following:

- a. a ‘political party’¹⁹, or an entity directly or indirectly related to the sphere of activity of such a political party;
- b. a ‘political alliance’²⁰;
- c. a ‘European political party’²¹;
- d. a candidate for or holder of any elected office at Union, national, regional and local level, or any leadership position within a political party;
- e. a member of Union institutions, with the exception of the Court of Justice of the European Union, the European Central Bank and the Court of Auditors, or of a government of a Member State at national, regional or local level;
- f. a political campaign organisation with or without legal personality, established solely for the purpose of influencing the outcome of an election or referendum;
- g. any natural or legal person representing or acting on behalf of any of the persons or organisations referred to in points (a) to (f), and promoting the political objectives of any of those persons or organisations.

In order to be classified as political advertising, a message by, for or on behalf of a political actor does not need to be liable and designed to influence elections, referendums or legislative or regulatory processes.

Messages that are **purely private or purely of a commercial nature are excluded**. An analysis of the concrete situation is necessary in order to determine whether political advertising is being conducted directly **by a political actor** or whether another entity is acting **for or on behalf** of a political actor in a particular case. Elements that could be taken into account include contractual arrangements, instructions and approvals given by the political actor (see Recital 22).

For example:

31. A politician hires a PR company to promote their image across the country. The PR company prepares the messages to be published in relevant newspapers and in social media posts. The messages are approved by the politician and disseminated by the PR company. The messages would be prepared and disseminated on behalf of the politician and considered political advertising.

¹⁹ As defined in Article 2, point 1, of Regulation (EU, Euratom) No 1141/2014¹⁹, or an entity directly or indirectly related to the sphere of activity of such a political party

²⁰ As defined in Article 2, point 2, of Regulation (EU, Euratom) No 1141/2014

²¹ As defined in Article 2, point 3, of Regulation (EU, Euratom) No 1141/2014

32. In the run-up to elections, a politician pays a network of content creators to post similar messages indirectly promoting them. This would qualify as political advertising.

2.2.5 Messages that are purely private or purely of a commercial nature

Article 3, point (2)(a) of the Regulation, makes it clear that messages by, for or on behalf of political actors that are purely private or purely commercial in nature should not be classified as political advertising.

As referred to in Recital 22, in order to determine whether a message is of a purely private or purely commercial nature, a variety of factors should be taken into account. The **content** of the message is the first aspect to consider, as it can indicate whether the message relates to personal life or commercial interests. In addition, understanding who the **sponsor** or initiator of a message is, assessing the **language** used, its **tone** and the overall **context**, including when and where the message is shared, can help unravel the intended purpose.

For example:

33. A political party posting a message to fill an internal vacancy, specifying the main contractual terms, would a priori be considered purely commercial.
34. An announcement by a candidate of the wedding of their daughter on social media would be considered purely private.
35. An advertising campaign launched by a local elected person, who is also a hotel owner, to promote holiday packages, including local attractions and sights, when booking accommodation at their new hotel would likely be for commercial purposes only.
36. Advertisements placed by a political campaign organisation on social media to introduce its services would likely fall within its commercial activities.

2.2.6 Messages liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process

Apart from messages by, for or on behalf of political actors, the definition of political advertising also covers messages that are liable and designed to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour. This could include messages on societal issues.

The assessment on whether messages are **liable and designed** to influence the outcome of an election or referendum, a legislative or regulatory process or voting behaviour, should be based on **objective elements** and take into account all necessary features (see Section 2.3).

The approach is functional. It is a priori not decisive who the sponsor or initiator of the message is, although it could help to determine its political character.

For the purposes of assessing whether a message is liable and designed to influence the outcome of elections, ‘elections’ should be understood, as referred to in Recital 31, as:

- (i) elections to the European Parliament;
- (ii) all elections or referendums organised at national, regional and local level in the Member States; and
- (iii) elections within political parties to choose their leadership.

The latter elections would include internal elections within a political party, including a European political party, to select individuals for leadership positions, typically the party leaders (e.g. presidents) and collegiate bodies (e.g. vice-presidents). This could cover the central governance and other levels (including regional or local levels) at which political parties choose their leadership.

Furthermore, messages liable and designed to influence the outcome of a legislative or regulatory process generally refer to messages that are aimed at influencing the preparation, negotiation, adoption or implementation of laws or regulations and should only relate to existing processes.

This would a priori involve legislative or regulatory processes which have **formally started** (e.g. officially registered or codified), but could also cover **the preparatory stage** of a legislative or regulatory process, if there is sufficient evidence that such a process is underway or imminent (e.g. from public consultation or press releases by the relevant authorities indicating preparation toward a legislative proposal or regulatory measure or where consultations with stakeholders are held).

For example:

- 37. A public information campaign to support prevention in health is unlikely to be liable and designed to influence an electoral or regulatory processes.
- 38. A campaign initiated in response to a specific amendment discussed in a legislative process would likely seek to influence the legislative process.
- 39. A public information campaign raising awareness that is launched after new legislation has been adopted, would a priori aim at educating the public rather than influencing the legislative process.
- 40. A campaign using slogans like ‘Make your vote count’ launched ahead of a referendum on a topic covered by the questions asked in the referendum is likely to be designed to influence the outcome of that referendum.
- 41. A campaign to promote the installation of a specific infrastructure that was launched while the parliament is debating a legislative proposal for the uptake of such infrastructure would likely have been designed and be liable to influence the regulatory process. This would however be a factual assessment, and factual elements could demonstrate the contrary (e.g. coincidental overlap).

2.3 Practical steps for the identification of political advertising

Article 8(1) of the Regulation provides a non-exhaustive list of features that must be considered when determining whether a message is liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process.

This includes aspects that might go beyond the pure **content** of the message, such as:

- (i) the **sponsor** of the message;
- (ii) the **language** used to convey the message;
- (iii) the **context** in which the message is conveyed including the period of dissemination (e.g. an electoral period);
- (iv) the **means** by which the message is prepared, placed, promoted, published, delivered or disseminated;
- (v) the **target audience**;
- (vi) the **objective of the message**;
- (vii) the **means** by which the message is prepared, placed, promoted, published, delivered or disseminated.

The list above relates explicitly only to point (b) of the definition of political advertising in Article 3, point (2). Even if not legally prescribed, its use could be considered to help assess messages by, for or on behalf of political actors.

In cases covered by Article 3(2)(b), a **clear and substantial link** must exist between the message and its potential to influence the outcome of an election or referendum, a legislative or regulatory process, or people's voting behaviour, and the fact that it is **designed for this should result** from all the relevant factors. In addition, the link should not be established retroactively purely on the basis of the message's impact (e.g. if the message goes viral).

To establish the link between the message and its political nature, **a holistic analytical approach should be taken, as it is likely to be based on more than one indicative element.**

Table 1 outlines objective elements to consider when assessing specific messages. These should **supplement one another** where a clear link cannot be drawn from only one or a few factors.

Table 1: Elements to be consider for identifying political advertisements

Feature	Elements to be considered
a) the content of the message;	Questions to consider:
	Main elements: • Is the message purely factual? • Does the message include political terminology or phrases commonly associated with political campaigns or societal issues? • Does the message concern issues or policies associated with a specific political actor or issues likely to become relevant in an upcoming election?

Feature	Elements to be considered
	• Does the message include political endorsements, calls to action, or discussions of political issues? • Can the views of a political actor be clearly inferred from the content of the message? • Does the message promote or oppose political actors? Additional elements that could be taken into account: • Is the tone of the message objective/neutral, or does it rely on emotional appeals? • Does the message attempt to set the agenda, by promoting the salience of a politically relevant issue?
(b) the sponsor of the message;	Questions to consider:
	Main elements: • Is the sponsor, or the entity ultimately controlling the sponsor, a political actor or affiliated with a political actor? • Is the sponsor, or the entity ultimately controlling the sponsor, an organisation with a political agenda? Additional elements that could be taken into account: • Is the sponsor, the entity ultimately controlling the sponsor or the person or entity providing remuneration in exchange for political advertising services, known to have financed political advertising or electoral campaigns?
(c) the language used to convey the message²²;	Questions to consider:
	Main elements: • Which language is used to convey the message? • Does the language used indicate potential targeting of linguistic minorities? • Is the entire message conveyed in only one language indicating potential targeting of a specific country? Additional elements that could be taken into account: • Does the message use specific jargon that might appeal to selected groups? • Are there other language versions of the same or similar content? • Where similar content is conveyed in different languages, do the messages appear to be tailored to a specific audience? • Does the language correspond to the target audience?

²² Language could be an important indicator with regard to messages targeted only at selected audiences (e.g. minorities) or geographic areas. Language should be understood to include any language used in the EU, i.e. not just the official languages of the EU, but also regional dialects, sign language or non-EU-country languages, and to use any means of communication or codification, such as braille and other means.

Feature	Elements to be considered
(d) the context in which the message is conveyed, including the period of dissemination;	Questions to consider: Main elements: • What is the timing of dissemination of the message in relation to elections, referendums, or legislative or regulatory processes (e.g. pre-election, election, during a legislative or regulatory process)? • Does the message relate to any recent political developments or controversies? Additional elements that could be taken into account: • Is the message being published or disseminated during significant political events? • Is the message part of a broader campaign strategy?
(e) the means by which the message is prepared, placed, promoted, published, delivered or disseminated;	Questions to consider: Main elements: • Which channel(s) has(ve) been used to publish or disseminate the message (e.g. social media, email, television, print)? • By which technological means was the message delivered (e.g. mobile apps, websites, streaming services)? • Is the message part of a coordinated multi-channel campaign? • Are there any specific platforms or services that are predominantly used for dissemination? Additional elements that could be taken into account: • Is the publisher known to be promoting political ideas on its own? • Is the message prepared, published or disseminated in different formats? • In what volumes or how frequently is the message circulated or repeated?
(f) the target audience;	Questions to consider: Main elements: • Is the ad relying on targeting techniques and, if so, what audience is it seeking to reach? • If targeting or ad-delivery techniques are applied, on which criteria was the audience targeted? • Is it clear from the message itself which audience it seeks to target? Additional elements that could be taken into account: • Where applicable, does the content correspond to the targeting criteria used? • Does the message highlight issues that resonate with specific geographic areas (e.g. urban, rural or coastal areas) or that use language or visuals that can be attributed to those areas?

Feature	Elements to be considered
(g) the objective of the message.	Questions to consider:
	Main elements: • Does the message include calls to action/non-action • Does the message aim to mobilise supporters, dissuade opponents? • Is the objective to raise awareness about a specific issue, or rather to inform people so that they can form their own opinions? • Are there any underlying strategic goals? Additional elements that could be taken into account: • Is it clear from the message that it is intended to influence an election or referendum, voting behaviour or a legislative or regulatory process? • Does the message serve to consolidate, strengthen or weaken a political opinion?

3. Obligations under the Regulation

This section details obligations for sponsors, providers of political advertising and publishers.

For the purposes of complying with the relevant obligations, ‘**online political advertising**’ refers to advertising published, delivered or disseminated using an information society service, including via the internet, such as online platforms, websites, mobile applications, computer games and other digital interfaces.

The Regulation provides for sanctions for non-compliance. In accordance with Article 25(1), sanctions laid down by Member States must be effective, proportionate and dissuasive.

3.1 Obligations on sponsors

The Regulation imposes specific obligations on sponsors involved in political advertising, which are detailed in Article 7 of the Regulation.

These primarily relate to **declaring political advertising and providing information necessary for providers to ensure compliance with the transparency or due diligence requirements**.

The sponsors are responsible for the accuracy of their declarations. They must promptly update or correct any inaccuracies detected.

When requesting an advertising service, sponsors (or providers of advertising services acting on behalf of sponsors) **need to truthfully declare whether the demanded service constitutes political advertising**, as defined in the Regulation.

Where sponsors request political advertising services in the **last three months preceding an election** or referendum (organised at Union level or at national, regional or local level in a Member State), which pertain to that election or referendum, they shall in particular declare that they are entitled to request such advertising. As further detailed in Section 3.2.2, Article 5(2) of the Regulation, only allows political advertising services to be provided to:

- **EU citizens,**
- **non-EU citizens permanently living in the EU and having the right to vote in that election or referendum, or**
- **legal persons which are not ultimately owned or controlled by third-country nationals** (unless they permanently live in the EU and have the right to vote in that election or referendum) or by legal persons established in third countries.

In addition, as provided for in Article 7(3) of the Regulation, sponsors (or providers of advertising services acting on their behalf), also have to provide **information that is necessary for the providers to comply with the record-keeping obligations** under Article 9(1) of the Regulation, as well as, in case of political advertising publishers, with the **labelling and transparency requirements** under Articles 11(1) and 12(1).

In line with the Regulation, such information should always include²³:

- ✓ information on the political advertisement or political advertising campaign to which the service or services are connected (Article 9);
- ✓ identity and the contact details of the sponsor and, where applicable, of the entity ultimately controlling the sponsor, including their name, email address, and, where made public, their postal address, and, when the sponsor is not a natural person, the address where it has its place of establishment (Article 9, 11, and 12);
- ✓ identity and the contact details of the natural or legal person providing remuneration in exchange for the political advertisement if this person is different from the sponsor or the entity ultimately controlling the sponsor (Article 12);
- ✓ the period during which the political advertisement is intended to be published, delivered or disseminated (Article 12);
- ✓ information on the public or private origin of the amounts and other benefits received in exchange of the service, as well as whether they originated from inside or outside of the Union (Article 9 and 12);
- ✓ where applicable, an indication of the election, referendum, legislative or regulatory process to which the political advertisement is linked (Article 9, 11 and 12);
- ✓ where connected to particular elections or referendum, links to official information about the modalities for participation in the election or referendum concerned (Article 12);
- ✓ where applicable, a statement to the effect that the political advertisement has been subject to targeting or ad-delivery techniques (Article 11 and 12);
- ✓ where applicable, whether a previous publication of the political advertisement or of its earlier version has been suspended or discontinued due to an infringement of this Regulation (Article 12).

When sponsors are ultimately controlled by another entity, the details of such entity need to be disclosed.

If sponsors (or providers of advertising services acting on their behalf) realise that any information they had previously provided has changed, they must promptly send the updated information to the relevant service provider in a complete and accurate way. Similarly, if they discover that any information transmitted to or published by the publisher is incomplete or inaccurate, they need to immediately reach out to that publisher and provide the correct or missing information.

In accordance with Article 7(4) of the Regulation, whenever sponsors are approached by the service providers on the basis of manifestly erroneous declarations or information and are asked to correct the relevant information, sponsors should respond to the request as soon as possible, and either complete or correct the relevant information. Such an approach should be maintained also as regards completing or correcting the information contained in labels or transparency notices in

²³ Article 7(3) provides that sponsors shall provide and ensure the accuracy of the information necessary for the providers of political advertising services to comply with Article 9(1), points (a), (d), (e) and (f), Article 11(1), points (a) to (d), and Article 12(1), points (a), (b), (c), (e), (h) and (k), before or during the period of publication, delivery, or dissemination of the political advertisement.

accordance with Article 12(2) or addressing notifications about possibly non-compliant political advertisements under Article 15.

3.2 Obligations on providers of political advertising services

3.2.1 Article 5(1): Non-discrimination

Cross-border provision of political advertising services in the internal market, just like the cross-border provision of all other services, is subject to the principle of non-discrimination.

On that basis, Article 5(1) of the Regulation establishes that access by a recipient to a service on offer to the public is not to be restricted solely on the grounds of the recipient's place of residence or establishment. Providers of political advertising services are **not allowed to discriminate against sponsors residing or legally established in the Union solely on the grounds of their place of residence or establishment**, except where the difference of treatment is justified and proportionate in accordance with Union law.

This should **not be understood as imposing a general obligation to provide service across the Union**. The possibility of differences of treatment remains but has to be based on justified objective reasons (e.g. when providing services only in one Member State), especially where providers otherwise do provide services in the Member State where the service is intended to be provided.

The non-discrimination principle is particularly relevant for European political parties when conducting political campaigns across the Union and fulfilling the role assigned to them by the Treaties. Its application under the Regulation extends to European political parties or political groups in the European Parliament, when acting as sponsors, in which case the providers should not deny or hinder their services or make them less attractive when requested by European political parties or European political groups solely on the grounds of their place of establishment, including registration.

3.2.2 Article 5(2): Ban on third-country sponsors

Under Article 5(2), in the three months leading up to an election or referendum, political advertising services pertaining to that election or referendum cannot be provided to third-country sponsors, without prejudice to stricter national rules (possibly including total bans).

Political advertising services can only be provided to sponsors **who declare themselves to be:**

- a. citizens of the Union; or
- b. non-EU citizens permanently living in the Union and having the right to vote in that election or referendum, according to the laws of the Member State where they reside; or
- c. a legal entity based in the Union that is not ultimately owned or controlled by non-EU citizens from outside the Union (except where the individuals permanently live in the Union and have the right to vote in that election or referendum), or by a company based outside the Union.

This rule does not affect national laws which might prohibit political advertising during certain periods. It also does not affect national laws which prohibit the provision of political advertising on behalf of specific categories of entity, such as legal entities or third country nationals.

Considering there are diverse electoral frameworks across the Member States, providing for different electoral periods (where applicable) or deadlines which can be shorter than three months, including as regards the possibility for snap elections, providers cannot be required to comply with this rule before the election or referendum was announced.

Member States shall publish the dates of their elections and referendums and, where applicable of their electoral periods, in an easily accessible place. The Commission will make available to the public a common EU portal through which the Member States will provide the relevant dates, immediately after the announcement of their elections and referendums. On this basis, providers will be aware of an election or referendum from the date it is officially announced in accordance with national legislation.

Providers of political advertising services are **only limited in the provision of their services to third-country sponsors three months before particular elections or referendums** in accordance with Article 5(2). This should not affect the provision of services to such sponsors outside those periods.

Compliance can be supported by having in place **effective monitoring mechanisms** to allow providers of political advertising services to keep track of the respective services provided to third-country sponsors, so that the provision of services can operatively stop.

3.2.3 Article 6(2): Contractual arrangements

Article 6(2) requires providers of political advertising services to ensure that the **contractual arrangements concluded for the provision of a political advertising service enable compliance** with the relevant provisions of the Regulation, including those relating to the allocation of responsibility and those relating to the completeness and accuracy of information.

This will support the provision of the necessary information flows across the value chain, also in light of Article 10 and the obligation to transmit the relevant information to the political advertising publisher.

There may be cases where the providers enter the chain without an overall knowledge of the outcome of the process or connection to the overall production (e.g. by means of sub-contracting). This would involve situations where, for example, a marketing agency is only contracted for the preparation of the ads, with the subsequent use of the ads being completely in the hands of the sponsor, as seen fit. In such cases, the marketing agency should not a priori be liable for the provision of information to a publisher when the publisher is unknown to them.

These cases should be determined in a contractual framework, allocating the obligation and liability for transmission of information accordingly. In the interests of process efficiency and reducing administrative burden, a good practice would be the contractual allocation of those responsibilities to the relevant sponsor, or provider acting on behalf of the sponsor, which is further requesting

services from the publisher. Otherwise, there could be a clause that the relevant provider is to be in due course informed of all contracted publishers for advertisements to which their services relate.

3.2.4 Article 7: Identification of political advertising services

In line with Article 7(1), all providers of advertising services (i.e. including those that do not engage in political advertising specifically) **have to ascertain from their clients whether the requested advertising service falls within the scope of the definition of political advertising under this Regulation**. In addition, providers also need to request the client to provide a declaration that they comply with the criteria under Article 5(2) (see Section 3.2.2).

Considering that the restriction is only relevant to political advertising services, providers could for example implement a stepwise approach and only seek declarations when political advertising is at stake. Otherwise, providers could also seek these declarations a priori from all sponsors but would then need to distinguish its applicability and apply accurate wording to this end. In any case, the declarations could be as simple as a toggle box in an online form.

In order to support their ability to demonstrate compliance, providers **should keep the declarations or records that declarations were provided**, including any relevant records hereto (e.g. where the sponsor was further contacted to correct the declarations), along the information they are required to keep in accordance with Article 9.

3.2.4.1 Contractual arrangements

Under Article 7(2), providers of political advertising services shall ensure that **contracts** concluded for the provision of a political advertising service require sponsors, or providers of advertising services acting on behalf of sponsors, **to provide declarations about the political nature of the service and the eligibility to be provided services** as per Article 5(2).

Additionally, providers of political advertising services shall ensure that such contracts require the provision of relevant information to enable compliance with the record-keeping obligations under Article 9(1) and, in case of political advertising publishers, with the labelling and transparency requirements under Articles 11(1) and 12(1) (see Sections 3.2.5 and 3.3.1).

As referend in Recital 53, where any conduct as part of commercial or contractual arrangement seeks or would risk circumventing the transparency obligations, those obligations are attributable to the entities that in substance provide the advertising service.

3.2.4.2 Administration of declarations and the necessary information

To support effective administration of information, providers should develop **functional methods for the submission and collection of the declarations and all the necessary information** to be provided by the sponsors. Uniformity in the collection system will serve to streamline the process, help reduce errors or omissions and ultimately support compliance by guiding the sponsors to provide everything that is required.

In accordance with Article 7(5) which requires providers using an **online interface** to ensure that the online interface is designed and organized in a way that facilitates compliance by sponsors,

or providers of advertising services acting on behalf of sponsors, any system developed should aim to be user-friendly and, as much as possible, assisting the sponsor as well.

This could, for instance, involve:

- ✓ providing **standardised forms** for sponsor to fill in (e.g. by pre-determining data fields to be filled or via ticking a box);
- ✓ where technically feasible, providing for the opportunity to **submit information via a digital interface**;
- ✓ where using digital interfaces, **automating the procedural steps** and providing real-time evaluation of the data entries as the forms are completed (e.g. by automated indication of missing data entries or erroneous format, initial assessment of the completeness of the information provided or cross-checking verification of the sponsor²⁴ against previous submissions with the provider);
- ✓ where using digital interfaces, **facilitating follow-up interactions**, including the opportunity to complement, update or correct the declaration or information provided by sponsors directly through the interface;
- ✓ enabling direct **access to the relevant provisions of the Regulation**²⁵, either through a hyperlink or by incorporating the wording of the provisions directly (e.g. within the declaration or as a pop-up window);
- ✓ making sure to employ **accurate language** to guide the collection system so as not to mislead the sponsor (e.g. not to imply extended scope of the ban beyond services pertaining to and provided withing 3 months ahead of elections or referendum).

3.2.4.3 Verification of information

The Regulation is **based on a system of truthful declaration** and accurate information provision from the sponsor and attributes the responsibility to the sponsor as regards those types of information that are, a priori, outside of the control of the provider.

It does not impose any general obligation for the providers of political advertising services to monitor the truthfulness of the declarations or to engage in costly fact-finding exercises (Recital 44 of the Regulation).

Where the declarations or the information provided appear to be **manifestly erroneous**, the **providers shall contact the sponsors, or providers acting on their behalf, and ask them to correct the relevant information.**

²⁴ Where applicable and technically feasible, cross-check verification could be implemented against a register of political actors in a Member State (e.g. register of political parties or movements).

²⁵ Especially as regards the definition of political advertising and the criteria under Article 5(2).

As referred to in Recital 45, providers of advertising services should consider a declaration or information as **manifestly erroneous** if that is **directly apparent** from the provided documents, content of the advertisement, the identity of the sponsor, or the context in which the relevant service is provided, without the need to carry out further assessments or engage in fact-finding exercises.²⁶

3.2.5 Article 9: Record-keeping

As part of due diligence, providers of political advertising services are required to **keep specific pieces of information** they collect while offering their services, as necessary to comply with relevant obligations.

The records shall in particular include the following:

- a) the political advertisement or political advertising campaign to which the service(s) is connected;
- b) the specific service(s) provided in connection with the political advertising;
- c) the amounts invoiced and the value of other benefits received for the service(s) provided;
- d) information on the public or private origin of the amounts and other benefits referred to in point (c), as well as whether they originated from inside or outside of the Union;
- e) the identity and the contact details of the sponsor and, where applicable, of the entity ultimately controlling the sponsor and, for legal persons, their place of establishment; and
- f) where applicable, an indication of the election, referendum, legislative or regulatory process to which the political advertisement is linked.

While providers should strive to ensure the accuracy and completeness of this information, it is the sponsor who is responsible for the accuracy of the points (a), (d), (e) and (f). The provider is thus responsible only for points which are in their direct control (i.e. as regards the specific service they provided and the amounts they invoiced, or the value of other benefits received).

The information needs to be **retained for a period of 7 years** after the provision of service ended. While it can be collected in written or electronic form, it has to be retained in a **machine-readable format**.

Where a provider qualify as micro-undertaking under Article 3(1) of Directive 2013/34/EU and the provision of advertising services is purely marginal and ancillary to their main activities, the record-keeping obligation does not apply. In such cases, nevertheless, providers still have to comply with other provisions of the Regulation. Therefore, in order to enhance providers' capacity to assert their compliance with the different obligations, they could, on a voluntary basis, keep record of the political advertising services provided in accordance with Article 9 to the extent possible (e.g. keeping only paper records).

²⁶ See also, for instance, Judgement of 8 March 2016, Hellenic Republic v European Commission (Case C-431/14 P, EU:C:2016:145, paragraph 32).

3.2.6 Article 10: Transmission of information to the political advertising publisher

During the provision of the relevant service, providers are required to transmit the information they collect in accordance with Article 9(1) in a timely, **complete and accurate manner** to the political advertising publishers so that they can comply with their obligations under the Regulation.

If they become aware that the transmitted information has changed, they have to provide the publishers with the updated information. As outlined in Section 3.2.3, this responsibility could be allocated to a sponsor or provider acting on behalf of the sponsor.

3.2.7 Article 16: Transmission of information to national competent authorities

Providers of political advertising services need to follow **information requests from competent national authorities** to verify compliance with Articles 9, 11, 12 and 14 (i.e. obligations regarding record-keeping, labelling and transparency notices). When the authorities ask for the relevant information, they must include a statement explaining the purpose of the request, unless doing so would hinder criminal investigations, and information on the available redress.

For the purposes of interacting with the authorities, providers have to **designate a contact point**, which, in case of micro to medium undertakings, may be an external natural person. In this sense, while the Regulation only requires the ‘designation’ of a contact point, providers should **make that contact point easily accessible** (e.g. by indicating the details on their website). For publishers, good additional practice could also be to indicate the contact point on the **interface through which transparency notices are provided**, when provided separately from the labels.

Where requests by national competent authorities are made, providers must acknowledge them within two working days, informing the authority also of the steps taken to comply with them, and supply the necessary information within **8 working days**, although micro to medium-sized providers are only required to make reasonable efforts to follow up within 12 working days. That said, during the **month leading up to an election or referendum**, information that is already in the possession of the provider must be supplied within **48 hours**, while micro or small providers are only required to comply as soon as possible and, ideally, before the relevant election or referendum.

3.2.8 Article 17: Transmission of information to other interested entities

Under Article 17, **interested entities** (i.e. vetted researchers²⁷, journalists, political actors, national or international electoral observers recognised in a Member State and members of a civil society organisations that are authorised under national or Union law and whose statutory objectives are to protect and promote the public interest) are entitled to request providers of political advertising services to share with them the information that they are required to have pursuant to Articles 9, 11 and 12, including information under Article 19(1) point (c) on the main parameters of targeting or ad-delivery techniques where applicable.

²⁷ Granted such status in accordance with Article 40(8) of the Regulation (EU) 2022/2065.

Generally, providers have to transmit the requested information **free of charge**, and where technically possible in a **machine-readable format**.

The providers may, however, **charge a reasonable and proportionate fee** where processing of the information request entails **significant cost**.

Where such requests **are manifestly unclear, excessive or concern information not within the possession of the providers**, they may **refuse** to provide the requested information, but they have to follow up with a reasoned response to the relevant interested entity, outlining also information on the possibilities for redress, including, where applicable, those that exist under Directive (EU) 2020/1828²⁸.

In any case, the providers bear the burden of demonstrating any of the above and have to transmit either the information requested or the reasoned response promptly and no later than **within one month**.

3.2.9 Article 21: Legal representative

Those service providers that provide political advertising services in the Union but do not have an establishment in the Union have to **designate, in writing, a natural or legal person as their legal representative in one of the Member States where they offer services**. In addition, the legal representative also has to be officially registered with the relevant competent authority of that Member State.

For the purpose of the registration, the service provider has to submit, in a machine-readable format, a set of identification data of their legal representative (i.e. their name, postal address, email address and telephone number) and has to ensure that the information is accurate and kept up to date.

The legal representative will be appointed as one for all EU Member States. To enable them to efficiently fulfil their tasks, service providers shall equip their legal representatives with the necessary powers and resources, as they shall be responsible for ensuring compliance with the obligations of the represented service provider and **may be held liable for any non-compliance** with the obligations under this Regulation.

The Commission shall set up and maintain a publicly available portal linking to online registers of all legal representatives registered on the territory of Member States under the Regulation.

3.3 Obligations on political advertising publishers

3.3.1 Articles 11 and 12: Labelling and transparency notices

Political advertising publishers must ensure that each political advertisement is made available together with a **label** and a **transparency notice**, which can be provided either directly through the label or it can be published separately if the label contains a clear indication of where it can be easily and directly retrieved. At least where political advertising is made available electronically,

²⁸ Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers

including through an online medium, the accompanying transparency notice should also be available electronically and in a machine-readable format.

The transparency notices together with any modifications thereto have to be kept **for a period of 7 years** after the last publication of the political advertisement concerned. It is also worth mentioning that all transparency notices can be retained electronically, i.e. without the need to store a specific hardcopy.

The format, template and technical specifications of the labels and transparency notices of political advertisements are set out in the Commission Implementing Regulation [xxxx].

While political advertising publishers are initially only responsible for the accuracy of certain information, in particular of the location at which the transparency notice can be retrieved (when not directly part of the label) and of Article 13(1) points (d), (f), (i), (j) and (m) of the transparency notice itself, they are in any case responsible for the **completeness of the information** (i.e. political advertisements should not be made available with any of the necessary information missing), and ultimately also for making best efforts to **complete or correct any information without undue delay if they become aware that it is incomplete or inaccurate**.

If the information **cannot be completed or corrected without undue delay**, the political advertising publisher must **not make the political advertisement available** or must promptly **discontinue** its publication, delivery or dissemination. When this is the case, it has to immediately **inform** the sponsors, or the providers of political advertising services concerned about any decisions taken in this regard.

Where **transparency notices relate to the same political advertisements and the same publishers**, even where published multiple times, the transparency notices **could be collective** for all of them. For instance, if a single political advertisement appears on billboards of the same publishing company all over the city, the transparency notice should be collective for all billboards presenting the same advertisement. If, on the other hand, there is a political campaign contracted, containing different advertisements (e.g. in terms of visualization, content or medium used), each advertisement should have its own transparency notice, irrespective of whether the advertisements are disseminated by the same political advertising publisher.

The transparency notice will nevertheless need to reflect the aggregated amounts received for the particular political advertisement, as well as for the whole political advertising campaign.

3.3.2 Article 13: European repository for online political ads

Political advertising publishers providing **online** political advertising have to also ensure coordination with the European repository for online political advertisements ('the Repository'), which is to be established by the Commission in accordance with Article 13.

Political advertising publishers **who are very large online platforms or very large online search engines** have to make each political advertisement, together with the information required under transparency notices, available in the **repositories, required under Article 39 of the Regulation (EU) 2022/2065**.

The obligations relating to the Repository will **only become relevant as of the date of its deployment.**²⁹

3.3.3 Article 14: Periodic reporting

With the exception of micro to medium-sized undertakings, as part of financial reporting under the Directive 2013/34/EU³⁰, political advertising publishers have to **attach to their management report** also details about the **money or value of other benefits they received**, either completely or partially, in exchange for their political advertising services, including **information about the use of targeting and ad-delivery techniques, which should be aggregated by campaign.**

Additionally, publishers must provide this information to the **relevant authorities in charge of auditing or supervising political actors**, if such authorities exist under national law.

3.3.4 Article 15: Notification mechanism

Political advertising publishers are required to implement **mechanisms** enabling individuals and other stakeholders **to notify advertisements** that do not comply with the Regulation. These mechanisms must be **accessible, user-friendly and free of charge**, and where technically possible, the publishers are also required to enable **electronic submissions** to support the ease of use.

If those mechanisms are not available, individuals should be able to report such political advertisement directly to the competent authorities.

In order to help publishers quickly identify and address the concerned political advertisement as well as the potential non-compliance, the notification mechanisms are to facilitate the submission of detailed and substantiated notifications which include all of the following elements:

- ✓ a substantiated explanation of the reasons why the natural or legal person submitting the notification alleges that the political advertisement in question does not comply with the Regulation;
- ✓ information enabling the identification of the political advertisement;
- ✓ the name and email address of the natural or legal person submitting the notification.

Publishers could consider including more data fields to help them properly address any potential non-compliance. Such data fields should not in any way be presented as mandatory for the notifying entities. The lack of information required in those additional data fields should not be interpreted as creating obstacles to processing a notification completely, on the basis of the information included in the notification, within the meaning of Article 15(7).

Once a notification is received, it must be **promptly acknowledged** to the notifier. Publishers who **are very large online platforms or very large search engines** must, **without undue delay**,

²⁹ By 10 April 2026, the Commission will adopt implementing act set out the arrangement for the functioning of the Repository. The Commission may issue further guidance on the compliance with the relevant obligations along with the establishment of the Repository.

³⁰ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings

diligently and objectively examine and address notifications, informing the notifier about the steps taken in response.

Conversely, political advertising publishers who are neither very large online platforms nor very large search engines, while acting in a diligent and objective manner, are only required to make best efforts to examine and address the notifications **without undue delay**, and at least when specifically requested, they should as well inform the notifier about the follow-up given to the notification.

That said, specific deadlines for addressing the notifications apply, especially during critical periods such as the month leading up to elections or referendums. During this time, publishers must process notifications linked to those elections or referendums **within 48 hours** (i.e. two calendar days, regardless of weekend or public holidays), provided that the notification contains all necessary information as required by Article 15(3). Publishers qualifying as micro to medium-sized undertakings shall make their best efforts to process notifications linked to the elections or referendums without undue delay.

To streamline the process, publishers are allowed to respond to multiple notifications about the same political advertisement or campaign collectively, using automated tools or by referring to the notification via an announcement on their website if needed.

In accordance with Article 12(2), when the political advertising publisher becomes aware by any means that a political advertisement does not fulfil the transparency requirements, including following an individual notification, the Regulation provides for a **stepwise approach**.

First, the publisher should make best efforts to correct the political advertisement, including by contacting the sponsor or the relevant service provider (first step), in order to complete or correct the information about the political advertisement (second step), and stop the publication or dissemination of the political advertisement only when the information cannot be completed or corrected without undue delay, bearing in mind the particular circumstances of each case and the objective to effectively guarantee the right of individuals to understand that they are confronted with a political advertisement (third step).

If any actions that affect the availability or the presentation of the notified political advertisement are taken, publishers must immediately inform the sponsors or providers of political advertising services concerned. That said, all publishers must provide clear and user-friendly information on redress options related to the notification in question and disclose any automated processing in handling the notifications.

3.4.4.1 Interplay with ‘notice and action mechanisms’ under Regulation (EU) 2022/2065 – Digital Services Act (DSA)

Non-compliance with this Regulation, including by not identifying political advertising and labelling it, may lead to an **illegal content under the DSA**. Consequently, a mislabelled political advertisement may constitute an illegal content under the DSA³¹. However, online platforms,

³¹ See Article 3(h), Article 16 and Recitals 12 and 50 of the DSA.

including very large online platforms, might **not in all cases be considered political advertising publishers**, such as when falling under the exception for intermediary providers when it comes to content uploaded directly by users without further consideration for its publication, delivery or dissemination. In such situations, online platforms are a priori not in a position to take actions that would serve to correct the situation (e.g. add the necessary label or complete, update or correct the relevant information). They may, nevertheless, within the scope of the DSA, still **act under the ‘notice and action mechanism’**, provided under Article 16 of the DSA and on which they may also rely under this Regulation, to decide whether or not they agree with the assessment of the entity notifying a potential illegality (e.g. advertisement not being properly labelled, provided information being false) and wish to remove or disable access to that content (‘action’).

It is worth noting, that Article 16 of the DSA does not oblige online platforms to act upon notices. Article 16 of the DSA, however, requires processing the notices and decide upon them in a timely, diligent, non-arbitrary and objective manner.

Where online platforms within the meaning of the DSA are notified pursuant to Article 16 of the DSA about a potentially non-compliant political advertisements with the Regulation, as being an illegal content under the DSA, for which they are not acting as political advertising publishers, the online platform should, in order to benefit from the exemption from liability for hosting services pursuant to Article 6 of the DSA, upon obtaining actual knowledge or awareness of illegality of the content, act expeditiously to remove or to disable access to that content. The illegality of the content should be identifiable by a diligent online platform without a detailed legal examination to give rise to actual knowledge or awareness pursuant to Article 6 of the DSA. In case an online platform removes or disables access to a non-compliant political advertisement with the Regulation, on the ground that it constitutes an illegal content under the DSA, it shall provide a clear and specific statement of reasons pursuant to Article 17 of the DSA, including clear and user-friendly information on the possibilities for redress available to the recipient of the service in respect of the decision, in particular, where applicable, through internal complaint-handling mechanisms, out-of-court dispute settlement and judicial redress.

To further support compliance with this Regulation, and taking into account Recital 55, which encourages intermediary service providers to facilitate the identification of political advertising uploaded or disseminated directly by users via their online intermediary service, online platforms could also **enable direct notification to the relevant users once the uploaded content has been identified as political advertisement**.

It should be recalled that there is no general monitoring obligation for intermediary service providers as regards the content shared by natural or legal persons, nor are they required to take proactive measures in relation to illegal content which they transmit or store.

As explained above in Section 3.3.4, the Regulation provides for a **‘stepwise approach’** pursuant to Article 12(2) for situations where the political advertising publisher becomes aware that a political advertisement does not fulfil the transparency requirements. This applies also in case publishers are paid to publish a political advertisement on an online platform which is not a publisher but a hosting service according to the DSA.

Let's take the example of a content creator paid to publish a political advertisement (therefore qualifying as a political advertising publisher) for a political party (sponsor) on an online platform (which is not a publisher but a hosting service according to the DSA). If a piece of information is missing from the label or transparency notice, under the Political Advertising Regulation, any citizen or any interested party can notify the content creator (Article 15). After processing the notification, the content creator needs to complete and correct the information without undue delay. If this is not the case, then the political advertisement should be considered illegal under the Political Advertising Regulation and, therefore, illegal content under the DSA, because the two conditions triggering illegality under the Political Advertising Regulation would be met: i) information about the political advertisement is **incorrect or incomplete**, and ii) it was not corrected or completed **without undue delay**, bearing in mind the particular circumstances of each case and the objective to effectively guarantee the right of individuals to understand that they are confronted with a political advertisement. In this case, the notifier may make use of the notice and action mechanism under the DSA by referring to illegality under the Political Advertising Regulation and the explanation that the stepwise approach as explained above in Section 3.3.4 was exhausted and did not lead to correction or completion of the required information about the political advertisement without undue delay.

This would work also in other cases, for instance, where a consultancy (publisher) is paid to publish a political advertisement for a company (sponsor) or where a media (publisher) is paid to publish an 'advertorial' (i.e. advertisement in the form of editorial content through a social media page) on a platform which is not a publisher but a hosting service according to the DSA.

3.4.4.2 The notion of 'best efforts'

The notion of 'best efforts' generally refers to **sensible means and actions to achieve a specified objective**. It assumes acting in good faith and employing logical steps that could be reasonably expected to be undertaken in similar circumstances to achieve the desired outcome, without necessarily determining the result of the process.

In principle, in terms of handling notifications, this could include:

- ✓ implementing a clear protocol or set of guidelines for staff to follow when dealing with notifications;
- ✓ training staff to recognise and prioritise notifications related to political advertising compliance;
- ✓ establishing a dedicated team (with sufficient technical, financial and human resources) or assigning specific personnel to handle and prioritize these notifications;
- ✓ utilising technology or software to sort out or categorise notifications;
- ✓ contacting the sponsor as soon as possible after a need arises.

During the last month before election or referendum, this could also include:

- ✓ allocating additional resources or personnel;
- ✓ implementing a dedicated schedule or overtime system for staff within the 48-hour timeframe,
- ✓ prioritising these notifications over less urgent matters.

In any case, whether actions taken by a provider satisfy the requirement of ‘making best effort’ has to be determined on a case-by-case basis, as the context (e.g. complexity, timing or overall number of notifications received) or the resources available to the provider differ in each particular situation.

3.3.5 Obligations on Ad technology providers

The Regulation foresees a **shared responsibility** between Ad technology providers and the providers of the publishing interfaces (which can be websites or mobile apps, for instance).

As referred to in Recital 67, where the providers of the political advertising services, which host or otherwise store and provide the content of political advertisements, are separate from those providers which control the publishing interface, they should both be considered political advertising publishers, with responsibility in respect of the specific service they provide, to ensure that labelling is provided and that the transparency notice and relevant information is available (see also Section 3.3).

The **allocation of responsibilities** should be framed by **contractual arrangements** and should by **no means lead to the duplication of the labelling and transparency efforts**.

As long as all the relevant obligations are complied with, the Regulation provides the Ad technology providers and providers of publishing interfaces with flexibility in arranging themselves and allocating the different responsibilities, taking into account the distinct services provided. Therefore, they should be able to rely on existing industry standards, codes of conduct or any other effective means to channel the provision of the necessary information. That said, considering the fact that when an ad is conveyed by an Ad technology provider, it typically gets displayed on a great number of individual interfaces, the labelling and provision of the transparency notices being ensured by the Ad technology provider may be the most efficient arrangement. Further, in the same spirit, it would be sensible that those who provide the labelling and transparency notices are also responsible for the compliance with obligations related to the European repository under Article 13.

Where such allocation of responsibilities was not opted for, the Ad technology providers would have to ensure the channelling of all the necessary information from sponsors to the providers of publishing interfaces which do not come in contact nor enter into contractual relationship with the sponsors, or providers acting on their behalf, and hence do not have the means to collect all the necessary information under Article 11(1) and Article 12(1) on their own. Where it is the providers of publishing interface being in charge of the labels and transparency notices, to reflect the additional provision of service they provide as the ultimate publishers, they should build upon the information received and adapt it where relevant before including it in the transparency notice, in particular as regards the points under Article 12(1).

This would include:

- (d) the aggregated amounts and the aggregated value of other benefits received by the providers of political advertising services, including those received by the publisher in part or full exchange for the political advertising services, and, where relevant, of the political advertising campaign;
- (f) the methodology used for the calculation of the amounts and value referred to in point (d);
- (i) where applicable, links to the European repository for online political advertisements referred to in Article 13;
- (j) information on the mechanisms referred to in Article 15(1);
- (l) where applicable, a statement to the effect that the political advertisement has been subject to targeting techniques or ad-delivery techniques on the basis of the use of personal data, including information specified in Article 19(1), points (c) and (e).

Finally, with regard to **missing or incorrect information**, given that the Regulation presupposes political advertising publishers to undertake targeted actions serving to first and foremost rectify the situations that may arise, and only as a last resort, to discontinue the publication, delivery or dissemination of the political advertisement, appropriate arrangements should be made to that effect between the Ad technology providers and the publishing interfaces, taking into account the spirit of the provisions already established under the Regulation.

In particular, without prejudice to the provisions of the Regulation 2022/2065, effective means should be established to ensure that where one of the joint publishers becomes aware that the information in the labels or the transparency notices is incomplete or inaccurate, it is ensured that best efforts are made to complete or correct the information without undue delay, as outlined in Article 12(2), and that the sponsor is contacted or informed as necessary.

Similarly, where more publishers are involved (e.g. where the Ad technology provider places one version of a political ad on various interfaces) and where a political advertisement is further subject to corrections, completions or discontinuations, it should be ensured that all publishers of that advertisement are adequately informed within the spirit of Article 12(2), including to enable adapting the transparency notices with regard to point (k) if the advertisement has been suspended or discontinued due to an infringement of the Regulation.

3.3.6 Obligations on content creators

As content creators are typically involved at the **end of the political advertising production chain**, engaging primarily in the publication or dissemination of the political advertisements, they must comply with the obligations applicable to political advertising publishers (i.e. obligations common for all service providers and those specific for publishers).

There are also cases where they are merely involved within the **preparatory stage** (e.g. by providing consultancy), in which case only the obligations applicable to all political advertising providers would apply (see Section 3.2).

When acting as political advertising publishers, these content creators will notably have to:

- ✓ request the sponsor to declare whether the service requested constitutes a political advertising service;
- ✓ request the sponsor to declare their eligibility to be provided with political advertising services, in accordance with the prohibitions towards third-country sponsors under Article 5(2);
- ✓ request the sponsor to provide them with the relevant information to ensure compliance with the record-keeping obligations under Article 9(1), as well as with the labelling and transparency requirements under Articles 11(1) and 12(1);
- ✓ label the political advertisements and provide a transparency notices (or make it clear from the labels where they can be found);
- ✓ put in place mechanisms for users to allow for notifying the content creator's content as potentially non-compliant political advertising;
- ✓ make the political advertisement, together with the transparency notice, available in the European repository.

As referred to in Recital 55, when engaged in political advertising via online platforms, content creators might be able to rely on **tools provided by the online platform**, such as tools for labelling content as political advertising. It is important, however, to keep in mind that by providing such tools, **online platforms do not assume liability as publishers** for the content creators in any way.

That said, since they also, normally, operate as single individuals or within smaller teams, certain exemptions may apply as part of alleviations for SMEs (see Section 3.4), in particular as regards:

- Article 9(4): Record-keeping obligations.
- Article 12(5): The retention of transparency notices for a period of seven years after the last publication of the political ad.
- Article 14(2): Annual reporting on the amounts invoiced for their political advertising services.
- Article 15(6)(b) and (7): Addressing the notifications about possibly non-compliant political advertisements.
- Article 16(3) and (4): Provision of information to national authorities.

3.4 SMEs

Small actors also play a key role in the political advertising ecosystem. The Regulation takes into account their specificities and provides for the following tailored requirements:

- i. Micro-undertakings **for which the provision of (all) advertising services is only marginal and ancillary to their main activities** are entirely **exempted** from the record-keeping obligations³² as well as from the requirement to retain the transparency notices together with any modifications thereto for a period of seven years after the last publication of the relevant political advertisements³³.
- ii. SMEs which are political advertising publishers **do not need to annually report on the amounts invoiced for their political advertising services**³⁴. In the **last month preceding an election or a referendum**, they also do not need to comply with the **48-hour deadline** to process notifications about possibly non-compliant political advertisements pertaining to that election or referendum. They should, however, make best efforts to process the notification without undue delay³⁵.
- iii. When **handling notifications**, micro-undertaking shall make **best effort** to ensure that, where requested, the person notifying the publisher about possibly non-compliant political advertisements **receives a follow-up that was given to the notification**³⁶.
- iv. When **national authorities request information** to verify compliance, **extended deadlines** apply to SMEs, which shall make reasonable efforts to provide the requested information within 12 working days and thereafter, without undue delay³⁷.
- v. When **national authorities request information to verify compliance in the last month preceding an election or a referendum**, micro or small undertakings should provide the information **without undue delay** and where possible before the date of the election or referendum, as compared to other providers to which 48-hour deadline applies³⁸.
- vi. SMEs **may appoint an external person as their contact point** for the interaction with competent national authorities³⁹.

³² Article 9(4)

³³ Article 12(5)

³⁴ Article 14(2)

³⁵ Article 15(7)

³⁶ Article 15(6)(b)

³⁷ Article 16(3)

³⁸ Article 16(4)

³⁹ Article 16(5)